

II. Settlement and Demarcation.

B. APPOINTMENT AND POSITION OF FOREST SETTLEMENT OFFICER—concluded.

India would prefer, both for administrative and financial reasons, that the official action of Forest Settlement Officers should be confined to performance of these duties.*

C. Duties of a Forest Settlement Officer.

128. A Forest Settlement Officer in his award of settlement is not required to make any record of *privileges*. The Settlement Officer has simply to record in his award column against the different forest numbers, *rights*, their nature and extent, where rights exist, and to record "free of rights" where no rights exist.

A Forest Settlement Officer is not to record that certain forest lands should be expunged and that others are available for exchange. This is the work of a Forest Demarcation Officer and not of a Forest Settlement Officer as defined by the Forest Act.†

129. The Forest Settlement Officer has two principal duties to attend to, first to make a proper inquiry; and, secondly, to dispose of the claims in accordance with the provision of Chapter II of the Forest Act. His enquiry is to be made not only into all claims duly preferred, but he is to search for the *existence* of any rights which are not claimed by examining Government records, taking the evidence of persons likely to be acquainted with any such rights, and personally surveying and mapping out the proposed forest.‡

Forest Settlement Officer's two principal duties are.

130a. The powers and duties of a Forest Settlement Officer, as defined by the Act, are briefly as follows:—

The "Forest Settlement Officer" (*vide* section 4c) is appointed to inquire into and determine the existence, nature and extent of any *rights* alleged to exist in favour of any person in or over any land comprised within the proposed forest limits, or in or over any forest produce, and to deal with the same as provided by the Act.

The Settlement Officer is required (section 7) to take down in writing any statements of claims of *rights* made under section 6, and to enquire into all claims duly preferred under that section, and the existence of any *rights* mentioned in sections 4 and 5, so far as may be ascertainable from the records of Government, and the evidence of any persons likely to be acquainted with the same.

* G. I. R. & A., No. 651-F, dated 6th June 1891, *vide* Government Resolution No. 4560, dated 6th July 1891.

† Government Resolution No. 4919, dated 15th September 1876.

‡ L. R. No. 565, dated 9th May 1881, *vide* Government Resolution No. 3112, dated 31st May 1881.

II. Settlement and Demarcation—continued.

C. DUTIES OF A FOREST SETTLEMENT OFFICER—continued.

In the case of a claim to a *right* in or over any land other than a right, if any, of (way or) pasture or to forest produce or a water-course, the Forest Settlement Officer shall (*vide* sections 9A and 10) pass an order admitting or rejecting the same in whole or in part.

If such claim be admitted in whole or in part the Forest Settlement Officer shall either

- (1) exclude land from the limit of the proposed forest, or
- (2) come to an agreement with the owner thereof for the surrender of his rights, or
- (3) proceed to acquire such land in the manner provided by the Land Acquisition Act, or

(4) if the claim relates to shifting cultivation (section 9A) shall record a statement setting forth the particulars of the claim and of any rule or order under which the practice is allowed or regulated, and submit the statement to the Local Government, together with his opinion as to whether the practice should be permitted or prohibited wholly or in part.*

The Forest Settlement Officer is deemed to be a Collector proceeding under the Land Acquisition Act (*vide* section 10a), and he may, with the consent of the claimant, with the consent of both parties, award compensation in land or partly in land and partly in money (section 10d).

In the case of a claim to *rights* of pasture or to forest produce, the Forest Settlement Officer shall pass an order admitting or rejecting the same in whole or in part (section 11).

The Forest Settlement Officer, when passing any order under section 11, shall record (section 12), so far as may be practicable,

- (1) the name, father's name, caste, residence, and occupation of the person claiming the right;
- (2) the designation, position and area of all fields or groups of fields (if any), and the designation and position of all buildings (if any), in respect of which the exercise of such rights is claimed.

* NOTE.—This sub-para. (4) has been taken from the Forest Act (V of 1890) and added to the Government Resolution so as to bring the orders up to date.

II. Settlement and Demarcation.

C. DUTIES OF A FOREST SETTLEMENT OFFICER—*continued.*

If the Forest Settlement Officer admits, in whole or part, any claim under section 11, he shall (*vide* section 13) record the extent to which the claim is so admitted, specifying the number and description of the cattle which the claimant is from time to time entitled to graze in the forest, the season during which such pasture is permitted, the quantity of timber and other forest produce which he is from time to time authorized to take or receive, or such other particulars as the case may require. He should also record whether the timber or other forest produce, obtained by the exercise of the rights claimed, may be sold or bartered.

After making such record, the Forest Settlement Officer shall (*vide* section 14) to the best of his ability, and having due regard to the maintenance of the reserved forests in respect of which the claim is made, pass such orders as will ensure the continued exercise of the *rights* so admitted. For this purpose the Forest Settlement Officer may,

Section 14, Indian Forest Act.

(i) set out some other forest tract of sufficient extent and in a locality reasonably convenient for the purposes of such claimants, and record an order conferring upon them the right of pasture or to forest produce, as the case may be, to the extent so admitted; or

(ii) so alter the limits of the proposed forest as to exclude forest land of sufficient extent and in a locality reasonably convenient for the purposes of the claimants; or

(iii) record an order, continuing to such claimants a right of pasture or to forest produce (as the case may be) to the extent so admitted, at such seasons, within such portions of the proposed forest, and under such rules, as may from time to time be prescribed by the local Government.

In case the Forest Settlement Officer finds it impossible, having due regard to the maintenance of the reserved forest, to make such settlement under section 14 as shall ensure the continued exercise of the said *rights* to the extent so admitted, he shall (*vide* section 15), subject to such rules as the Local Government may from time to time prescribe in this behalf, commute such rights, either by payment to such persons of a sum of money in lieu thereof, or by the grant of land, or in such other manner as he thinks fit.

Section 15, Indian Forest Act.

In cases in which the Forest Settlement Officer "finds it impossible, having due regard to the maintenance of the reserved forest, to make such settlement under section 14 of the Forest Act as shall ensure the continued exercise of the Inámdárs' rights to the extent" to which he has admitted their existence, section 15 of the Act requires that the Forest Settlement Officer "shall commute such rights, either by the payment to such persons of a sum of money in lieu thereof, or by the grant of land or in such other manner as he thinks fit." This it is incumbent on the Forest Settlement Officer to do, and an appeal will lie under section 16 of the Act against any order he may

Rule under section 15, Indian Forest Act, regarding Inámdárs' rights.

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C. DUTIES OF A FOREST SETTLEMENT OFFICER—*continued.*

pass. The provisions of the Land Acquisition Act are not applicable. The commutation must be made under section 15 of the Forest Act and subject to such rules, if any, as Government may have prescribed under that section.*

130b. Lands handed over to forests under former demarcations should *not*

Former demarcation need not come under settlement again.

come within the cognizance of the Forest Settlement Officer, for the reason that all claims connected with them have already been enquired into, settled, and recorded, and his settlement has been approved of and

sanctioned by Government, and has been in observance for years. Should the Forest Settlement Officer have reason to suspect that in any instance the previous enquiry was insufficient, he may report the case for the special orders of Government as to whether a detailed enquiry is to be made under the Act.

Although under sections 10, 14 (a), (b) and 15, a Forest Settlement Officer

Forest Settlement Officer has no power to expunge former settlements.

is empowered to exclude proposed forest lands which may be burdened with rights, to give some forest tracts as compensation for rights that were attaching to other forest tracts retained in reserved forests, to alter the

limits of *proposed* forest, so as to exclude forest land from the exercise of rights, he has no power to throw out any portion of declared reserved forest previously settled—land indeed which has not been by law subjected to his operations or control in this respect.

Section 26, Indian Forest Act.

Section 26 of the Act prescribes the procedure to be observed when any forest, or any portion of it, is desired to be removed from reservation, and the Forest Settlement Officer's duties have no connection with this

work.†

131. The proceedings of Forest Settlement Officers under sections 7 and

Procedure under sections 7 and 10 should be full and formal.

10 of the Forest Act should be full and formal, following the forms of procedure in civil suits. They should, of course, regard the contention of Government in reliance on the opinion of the Legal Remembrancer simply as

the case of one party to a suit.‡

132. Under section 28, rights enquired into and

Section 28, Indian Forest Act.

recorded at a survey or settlement are sufficiently enquired into for the purposes of the Act.

A declaration under section 34 does not affect rights of Government or

Section 34, Indian Forest Act.

private persons which have previously been settled in a manner which Government think sufficient. It follows that where rights have either been admitted or *rejected* in favour of Government in such manner, the enquiry is not to be re-opened.§

* L. R. No. 1056, dated 9th August 1884, *vide* Government Resolution No. 6940, dated 29th August 1884.

† Government Resolution No. 4919, dated 15th September 1879.

‡ Government Resolution No. 8438, dated 16th October 1885.

§ Government Resolution No. 4576, dated 30th August 1879.

II. Settlement and Demarcation.

C. DUTIES OF A FOREST SETTLEMENT OFFICER—*concluded.*

133. The Collectors and their Assistants in charge of talukas are to the utmost of their powers to co-operate with the Forest Settlement Officer so as to facilitate the progress of his settlements and prevent undesirable delay in their completion.

Help to be given by the Collector and his Assistants to the Forest Settlement Officer.

The Forest Demarcation Officer should consult the Divisional Forest Officer.

Duties of District Officers with regard to settlement.

134. It is essential that the Forest Settlement Officer should, when preparing the demarcation scheme, work in consultation with the Divisional Forest Officer.*

135. District Officers should consider it to be their duty to bring to the notice of Forest Settlement Officers the existence of any rights likely to be overlooked.†

136. As regards inquiries by Forest Settlement Officers into rights, it is sufficient if full and clear notice is given as required by the Forest Act. It is no part of the duty of these officers to hunt up imaginary claims for decision or to put up people to making claims they never dreamt of. As a British Officer the Forest Settlement Officer will of course take care that no stupid, ignorant man is injured by his claims not being considered, but beyond this he is not required to go.‡

The extent to which rights should be inquired into.

137. As regards privileges, a Forest Settlement Officer may make such recommendations as the circumstances seem to him to justify or necessitate, but the question of privileges must be kept entirely separate from that of rights, and no rights should be admitted except those which are satisfactorily established. It cannot be allowed that the fact that certain rights have been proved or admitted in certain talukas furnishes of itself sufficient evidence or authority to warrant a Forest Settlement Officer in ruling that those rights must be granted in other talukas. The Forest Settlement Officer is required in each case to take the facts as he finds them and to admit rights only where he finds their existence proved. He cannot admit rights in one taluka simply because they have been admitted in another.§

Relating to privileges.

Rights cannot be admitted in one place simply because they exist in another.

D. Nature of Rights.

Classification rights.

138. (i) Right of way and right to a water-course are included in the rights referred to in section 9 of the Indian Forest Act.

* Government Resolution No. 17, dated 4th January 1889.

† Government Resolution No. 9305, dated 24th November 1884.

‡ Government Resolution No. 409, dated 17th January 1883.

§ Government Resolution No. 2051, dated 12th March 1883.